



10 C.F.R. Part 824 Overview

Carrienne J. Zimmerman
Office of Security Enforcement
Office of Enforcement

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Purpose



- **Title 10 Code of Federal Regulations (C.F.R.)
Part 824**
 - Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations



Security Enforcement Overview



Statutory Background

- **National Defense Authorization Act (FY 2000)**
 - Added New Section 234B to AEA
 - Provides for Imposition of Civil Penalties for Violation of Rules, Regulations or Orders Relating to the Safeguarding or Security of Restricted Data or Other Classified or Sensitive Information



Security Enforcement Overview



Statutory Background (cont'd)

- **10 C.F.R. Part 824 published January 26, 2005**
 - Safeguards & Security Manuals Posted September 6, 2006
 - National Security System Manual Posted March 8, 2007
 - Manuals contained 824 Advisory Language



Subject to Civil Penalty



■ Violation of Classified Protection Requirements in Rules and Department Security Policies

- 10 C.F.R. 1016, *Safeguards of Restricted Data*
- 10 C.F.R. 1045, *Nuclear Classification and Declassification*
- DOE M 470.4-1, -2, -3, -4, -5, and -6
- DOE M 205.1-4, *National Security System Manual*
- DOE M 205.1-5, *Cyber Security Process Requirements Manual*
- NAP 70.4, *Information Security*
- NAP 70.2, *Physical Security*



Enforcement Philosophy



- **DOE Contractors viewed as being in best position to identify and promptly correct noncompliances**
- **Assessment driven vs. event driven (proactive vs. reactive)**



Enforcement Philosophy (cont'd)



- **Emphasis on Promoting Contractor Timely Identification, Reporting, and Correction of Noncompliances**
 - Safeguards and Security Information Management System (SSIMS)
 - Self-Assessment Program
 - Trending/Analysis of Security Incidents
 - Mitigation of Civil Penalties
- **Select Enforcement Actions for Serious or Egregious Security Incidents**



Sources of Noncompliances



- **Security Incident Reporting Per DOE M 470.4-1**
 - Inquiry/Investigation Conducted Discloses Violation(s) of Classified Information Security Requirements

- **Findings or Issues Identified During Inspections/Appraisals**
 - Independent Oversight (HS-60)
 - Local Security Surveys
 - IG or GAO Reports



Factors Considered in Determining Case Selection



- **Security Significance/Severity Level**
- **Level of Individual Involved (Senior Management vs. Non-Supervisory)**
- **Prompt Identification/Reporting of the Incident**



Factors Considered in Determining Case Selection

(cont'd)



- **Isolated Event or Systemic Problem**
- **Serious Breakdown of Management Controls**
- **Comprehensive Corrective Actions**



Enforcement Process



- **Local inquiry / HQ Investigation**
- **Identification of Potential Violation(s) of Classified Information Security Requirements**
- **Enforcement Investigation – Validate Potential Violation(s) of Classified Information Security Requirements**
- **Enforcement Conference**



Enforcement Outcomes



- **Enforcement Letter**
- **Settlement Agreement**
- **Preliminary Notice of Violation (PNOV)**
- **Final Notice of Violation (FNOV)**
- **Compliance Order**

(Office of Enforcement Website: <http://www.hss.energy.gov/enforce>)



PNOV Process



- **Contractor has 30 days to respond to PNOV**
- **No response, PNOV becomes Final Order**
- **Contractor must respond if FNOV issued**
- **Agree to pay fine, or request hearing, per 10 C.F.R. Part 824.8**



NNSA Process Differences



- **Office of Enforcement recommends enforcement action to NNSA Administrator**
- **NNSA Administrator has signature authority on enforcement actions**



Civil Penalty



Severity Level and Base Civil Penalties

- **Level I \$110,000**

(Violations of classified information security requirements which involve actual or high potential for adverse impact on the national security.)

- **Level II \$ 55,000**

(Violations represent a significant lack of attention or carelessness toward responsibilities of DOE contractors for the protection of classified information which could, if uncorrected, potentially lead to an adverse impact on the national security.)

- **Level III \$ 11,000**

(Violations are less serious, but are of more than minor concern: i.e., if left uncorrected, they could lead to a more serious concern.)

Note: Maximum Civil Penalty Per Violation Per Day